APPENDIX A

WASHINGTON LEGISLATION RELATING TO SUBVERSIVE ACTIVITIES

HOUSE CONCURRENT RESOLUTION NO. 10.
(Session Laws, 1947, p. 1378)

Be It Resolved, By the House of Representatives, the Senate concurring, of the State of Washington in legislative session assembled:

WHEREAS, These are times of public danger; subversive persons and groups are endangering our domestic unity, so as to leave us unprepared to meet aggression, and under cover of the protection afforded by the bill of rights these persons and groups seek to destroy our liberties and our freedom by force, threats and sabotage, and to subject us to the domination of foreign powers; and

WHEREAS, Recent announcements by responsible officers of the federal government indicate the seriousness of the problem. J. Edgar Hoover, Director of the Federal Bureau of Investigation recently said: "During the past five years American Communists have made their deepest inroads upon our national life. Their propaganda, skillfully designed and adroitly executed has been projected into practically every phase of our national life. The Communist influence has projected itself into some newspapers, books, radio and the screen, some churches, schools, colleges and even fraternal orders have been penetrated, not with the approval of the rank and file, but in spite of them"; and

WHEREAS, State legislation to meet the problem and to assist law enforcement officers can best be based on a thorough and impartial investigation by a competent and active legislative committee;

Now, Therefore, Be It Resolved, That there is hereby created a Joint Legislative Fact-finding Committee on Un-American Activities in the State of Washington which shall investigate, ascertain, collate and appraise all facts concerning individuals, groups or organizations whose activities are such as to indicate a purpose to foment internal strife, discord and dissension; infiltrate and undermine the stability of our American institutions; confuse and mislead the people, and impede the normal progress of our state and nation either in a war time or a peace time economy; and

Be It Further Resolved, That in addition to other duties imposed upon the committee, the committee shall investigate the activities of groups and organizations whose membership includes persons who are communists, or any other organization known or suspected to be dominated or controlled by a foreign power, which activities affect the conduct of this state, the functioning of any state agency, unemployment relief and other forms of public assistance, educational institutions of this state supported in whole or in part by state funds, or any political program; and

Be It Further Resolved, That the committee shall consist of four members of the House of Repre-

sentatives, appointed by the speaker thereof; and three members of the Senate appointed by the president thereof and they shall be subject to confirmation by their respective bodies. The speaker of the House of Representatives shall appoint the chairman of the board; and

Be It Further Resolved, That the committee hereby created in exercising the powers and performing the functions vested in it by this resolution shall have: (I) All the powers conferred upon legislative committees by chapter 6, Laws of 1895 and chapter 33, Laws of 1897; (II) except when inconsistent with this resolution, all the powers conferred upon committees by the rules of the House of Representatives, the rules of the Senate, and the joint rules of the Senate and House of Representatives as they are enacted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full; (III) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To employ and fix the compensation of a secretary and such clerical, legal, expert and technical assistants as it may deem necessary, and to lease, rent or buy such supplies and facilities as may be required;

(2) The chairman shall have authority to create subcommittees from its membership, assigning

to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in the State of Washington at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in anywise bearing upon or relating to the subject of this resolution;

(7) To meet at any and all places in this state, in public or executive session;

(8) To act during this session of the legislature, including any recess hereof, and after final adjournment hereof until commencement of the thirty-first legislature;

(9) To file a report with the thirty-first legislature;

(10) To summon and subpoena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description; to issue subpoenas and to take all necessary means to compel the attendance of witnesses and procure testimony; to pay fees and traveling expenses of witnesses to insure their attendance, if necessary; to procure from any court having jurisdiction, upon complaint showing probable cause to believe that pertinent evidence is being concealed or withheld from the committee, a search warrant and cause a search to be made therefor;

(11) To cooperate with and secure the cooperation of county, city, city and county and other local enforcement agencies in investigating any matter within the scope of this resolution, and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the committee; and

(12) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and

in case of disobedience on the part of any witness to comply with any subpoena issued by the committee or on the refusal of any person to testify regarding any matter on which he may be lawfully interrogated, the superior court of any county, or the judge thereof, on application of the committee, shall compel compliance by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein; and

Be It Further Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and

Be It Further Resolved, That every department, commission, board, agency, officer and employee of the state government, including the attorney general, and their subordinates, and of any political subdivision, county, city, or public district of or in this state shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and

Be It Further Resolved, That the Washington state patrol and all officers and members thereof shall furnish such assistance to the committee as the chairman may direct; and

Be It Further Resolved, That the members appointed to the joint Legislative Fact-finding Committee on Un-American Activities shall be reimbursed for their expenses incurred while attending sessions of the committee or subcommittee to the extent of fifteen dollars ($15) per day plus five cents (5¢) per mile in going to and coming from meetings or hearings of the committee or subcommittee, the same to be paid upon their individual vouchers, approved by the chairman of the committee, from any moneys appropriated for the expense of the thirtieth legislature, or from such other funds as may be made available therefor; and that the salaries and expenses of any expert, clerical, and other assistants employed by the committee shall be paid upon vouchers approved by the chairman of the committee from such funds.

Passed the House March 3, 1947.

Passed the Senate March 8, 1947.

Laws of 1949, chapter 242, Sec. 2, at p. 948, thereof provides, in part:

SEC. 2. The following sums, or so much thereof as shall be severally found necessary, are hereby appropriated * * * *Provided*, That no part of any appropriation contained in this act shall be used to pay the salary or wages of any person who * * * advocates, or is a member of an organization that advocates, the overthrow of the government of the United States by force or violence: *Provided further*, That for the purposes hereof an affidavit filed with

the State Auditor by the payee prior to the issuance of any warrant, or in lieu thereof a certificate by the responsible officer certifying that the payee or payees for whom vouchers or payrolls are submitted have filed with such officer such affidavit, shall be prima facie evidence that the person making it, or filing the same with the responsible officer, has not acted contrary to the provisions herein set forth: *Provided further*, That any person who advocates, or is a member of an organization that advocates, the overthrow of the government of the United States by force or violence, and accepts employment the salary or wages for which are paid from any appropriation contained in this act, shall be guilty of a gross misdemeanor and shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both.

CHAPTER 254, LAWS OF 1951

[S. B. 379.]

SUBVERSIVE ACTIVITIES ACT.

AN ACT to be known as the "Subversive Activities Act," defining the crime of sedition and of being a subversive person or organization and prescribing the punishment and penalties thereof; relating to the loyalty of candidates for public office and prescribing procedures of filing for election to public office; relating to the loyalty of officers and employees of the state or of any political subdivision thereof; prescribing procedures and providing for employment and discharge thereof; providing for the appointment of a special assistant attorney general, prescribing the duties thereof; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. For the purpose of this act:

(a) "Organization" means an organization, corporation, company, partnership, association, trust, foundation, fund, club, society, committee, association, political party, or any group of persons, whether or not incorporated, permanently or temporarily associated together for joint action or advancement of views on any subject or subjects.

(b) "Subversive organization" means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence.

(c) "Foreign subversive organization" means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual.

(d) "Foreign government" means the government of any country or nation other than the government of the United States of America or of one of the states thereof.

(e) "Subversive person" means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them, by revolution, force, or violence; or who is a member of a subversive organization or a foreign subversive organization.

SEC. 2. It shall be a felony for any person knowingly and wilfully to:

(a) commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington or any political subdivision of either of them, by revolution, force or violence; or

(b) advocate, abet, advise, or teach by any means any person to commit, attempt to commit, or assist in the commission of any such act under such circumstances as to constitute a clear and present danger to the security of the United States, or of the state of Washington or of any political subdivision of either of them; or

(c) conspire with one or more persons to commit any such act; or

(d) assist in the formation or participate in the management or to contribute to the support of any subversive organization or foreign subversive organization knowing said organization to be a subversive organization or a foreign subversive organization; or

(e) destroy any books, records or files, or secrete any funds in this state of a subversive organization or a foreign subversive organization, knowing said organization to be such.

Any person upon a plea of guilty or upon conviction of violating any of the provisions of this section shall be fined not more than ten thousand

dollars, or imprisoned for not more than ten years, or both, at the discretion of the court.

SEC. 3. It shall be a felony for any person after June 1, 1951 to become, or after September 1, 1951 to remain a member of a subversive organization or a foreign subversive organization knowing said organization to be a subversive organization or foreign subversive organization. Any person upon a plea of guilty or upon conviction of violating any of the provisions of this section shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both, at the discretion of the court.

SEC. 4. Any person who shall be convicted or shall plead guilty of violating any of the provisions of sections two and three of this act, in addition to all other penalties therein provided, shall from the date of such conviction be barred from

(a) holding any office, elective or appointive, or any other position of profit or trust in, or employment by the government of the state of Washington or of any agency thereof or of any county, municipal corporation or other political subdivision of said state;

(b) filing or standing for election to any public office in the state of Washington; or

(c) voting in any election held in this state.

SEC. 5. It shall be unlawful for any subversive organization or foreign subversive organization to exist or function in the state of Washington and

any organization which by a court of competent jurisdiction is found to have violated the provisions of this section shall be dissolved, and if it be a corporation organized and existing under the laws of the state of Washington a finding by a court of competent jurisdiction that it has violated the provisions of this section shall constitute legal cause for forfeiture of its charter and its charter shall be forfeited and all funds, books, records and files of every kind and all other property of any organization found to have violated the provisions of this section shall be seized by and for the state of Washington, the funds to be deposited in the state treasury and the books, records, files and other property to be turned over to the attorney general of Washington.

VETOED

SEC. 6. The attorney general is hereby authorized and directed to appoint a special assistant attorney general. Said special assistant attorney general shall have the responsibility and authority to assemble, arrange and deliver to the prosecuting attorney of any county, together with a list of necessary witnesses, all information and evidence of matters within said county which have come to his attention, relating in any manner to the acts prohibited by this act, and relating generally to the purposes, processes and activities of communism and any other or related subversive organizations, associations, groups or persons.

VETOED

SEC. 7. For the collection of any evidence or information referred to in this act a special assistant attorney general is hereby authorized to call upon the attorney general, state patrol, and prosecuting attorneys, sheriffs, police chiefs, and any other state, county or municipal police authorities in this state to furnish such assistance as may come within the scope of their duties and legal authority. Nothing herein shall be construed as redefining, extending or granting any additional authority, powers or duties of such officers or agencies.

The special assistant attorney general, herein provided for, may testify before any grand jury or petit jury as to matters referred to in this act.

SEC. 8. The records of the special assistant attorney general shall not be made public or divulged to any person, except upon the written permission of the attorney general in order to effectuate the purposes of this act. The special assistant attorney general shall be authorized to establish such office or offices as shall be deemed are necessary and required for the effective operation of this act. To the extent that his time may not be required in the performance of his duties under this act, the special assistant attorney general shall be available for, and perform such other duties as may be assigned to him by the attorney general.

SEC. 9. The attorney general shall prepare and report to the governor, to the legislature, at or before the convening of each biennial session a concise statement of all matters pertaining to his official duties together with his recommendations for the enforcement of the provisions of this act.

VETOED

SEC. 10. The judge or judges of superior court of each county, when informed by the special assistant attorney general or by the prosecuting attorney of said county or counties, that there is information or evidence of the character described in section six of this act to be considered by a grand jury, may call such grand jury, and shall charge the grand jury to inquire into the violations of this act.

SEC. 11. No subversive person, as defined in this act, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government, or in the administration of the business, of this state, or of any county, municipality, or other political subdivision of this state.

SEC. 12. Every person and every board, commission, council, department, court or other agency of the state of Washington or any political subdivision thereof, who or which appoints or employs or supervises in any manner the appointment or employment of public officials or employees shall establish by rules, regulations or otherwise, procedures designed to ascertain whether any person is a subver-

sive person. In securing any facts necessary to ascertain the information herein required, the applicant shall be required to sign a written statement containing answers to such inquiries as may be material, which statement shall contain notice that it is subject to the penalties of perjury.

SEC. 13. The inquiries prescribed in preceding sections, other than the written statement to be executed by an applicant for employment, shall not be required as a prerequisite to the employment of any persons in any case in which the employing authority may determine, and by rule or regulation specify the reasons why, the nature of the work to be performed is such that employment of such persons will not be dangerous to the health of the citizens or the security of the governments of the United States, the state of Washington, or any political subdivision thereof.

SEC. 14. Every person who, on June 1, 1951, shall be in the employ of the state of Washington or of any political subdivision thereof, other than those now holding elective office shall be required on or before July 1, 1951, to make a written statement which shall contain notice that it is subject to the penalties of perjury, that he or she is not a subversive person as defined in this act; namely, any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended

to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them, by revolution, force, or violence; or who is a member of a subversive organization or a foreign subversive organization, as more fully defined in this act. Such statements shall be prepared and execution required of and by every person and every board, commission, council, code department, court or other agency of the state of Washington or any subdivision thereof responsible for the supervision of other employees, for the employees under the jurisdiction thereof. Any such person failing or refusing to execute such a statement or who admits he is a subversive person as defined in this act shall immediately be discharged.

SEC. 15. Reasonable grounds on all the evidence to believe that any person is a subversive person, as defined in this act, shall be cause for discharge from any appointive office or other position of profit or trust in the government of or in the administration of the business of this state, or of any county, municipality or other political subdivision of this state, or any agency thereof. The attorney general and the personnel director, and the civil service commission of any county, city or other political subdivision of this state, shall, by appropriate rules or regulations, prescribe that persons charged with being subversive persons, as defined in this act,

shall have the right of reasonable notice, date, time and place of hearing, opportunity to be heard by himself and witnesses on his behalf, to be represented by counsel, to be confronted by witnesses against him, the right to cross-examination, and such other rights which are in accordance with the procedures prescribed by law for the discharge of such person for other reasons. Every person and every board, commission, council, department, or other agency of the state of Washington or any political subdivision thereof having responsibility for the appointment, employment or supervision of public employees not covered by the classified service in this section referred to, shall establish rules or procedures similar to those required herein for classified services for a hearing for any person charged with being a subversive person, as defined in this act, after notice and opportunity to be heard. Every employing authority discharging any person pursuant to any provision of this act, shall promptly report to the special assistant attorney general in charge of subversive activities the fact of and the circumstances surrounding such discharge. Any person discharged under the provisions of this act shall have the right within thirty days thereafter to appeal to the superior court of the county wherein said person may reside or wherein he may have been employed for determination by said court as to whether or not the discharge appealed from was justified under the provisions of this act. The court

shall regularly hear and determine such appeals and the decision of the superior court may be appealed to the supreme court of the state of Washington as in civil cases. Any person appealing to the superior court may be entitled to trial by jury if he or she so elects.

SEC. 16. No person shall become a candidate for election under the laws of the state of Washington to any public office whatsoever in this state, unless he or she shall file an affidavit that he or she is not a subversive person as defined in this act. No declaration of candidacy shall be received for filing by any election official of any county or subdivision in the state of Washington or by the secretary of state of the state of Washington unless accompanied by the affidavit aforesaid, and there shall not be entered upon any ballot or voting machine at any election the name of any person who has failed or refused to make the affidavit as set forth herein.

SEC. 17. Every written statement made pursuant to this act by an applicant for appointment or employment, or by any employee, shall be deemed to have been made under oath if it contains a declaration preceding the signature of the maker to the effect that it is made under the penalties of perjury. Any person who wilfully makes a material misstatement of fact (a) in any such written statement, or (b) in any affidavit made pursuant to the provisions of this act, or (c) under oath in any hearing conducted by any agency of the state, or of any of its

political subdivisions pursuant to this act, or (d) in any written statement by an applicant for appointment or employment or by an employee in any state aid or private institution of learning in this state, intended to determine whether or not such applicant or employee is a subversive person as defined in this act, which statement contains notice that it is subject to the penalties of perjury, shall be subject to the penalties of perjury, as prescribed in chapter 9.72, R.C.W.

SEC. 18. If any provision, phrase, or clause of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions, phrases, or clauses or applications of this act which can be given effect without the invalid provision, phrase, or clause or application, and to this end the provisions, phrases and clauses of this act are declared to be severable.

SEC. 19. Nothing in this act shall be construed to authorize, require or establish any military or civilian censorship or in any way to limit or infringe upon freedom of the press or freedom of speech or assembly within the meaning and the manner as guaranteed by the Constitution of the United States or of the state of Washington and no regulation shall be promulgated hereunder having that effect.

SEC. 20. This act may be cited as the Subversive Activities Act.

VETOED

SEC. 21. There is hereby appropriated from the general fund to the attorney general the sum of fifty thousand dollars, or so much thereof as may be necessary for the purposes of carrying out this act.

SEC. 22. This act is vitally necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately.

Passed the Senate March 8, 1951.

Passed the House March 6, 1951.

Approved by the Governor March 19, 1951, with the exception of sections 6, 7, 8, 10 and 21, which are vetoed.

CHAPTER 142, LAWS OF 1953

[S. B. 7.]

SUBVERSIVE PERSONS

AN ACT relating to subversive persons; amending section 9.81.010 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 9.81.010, RCW, is amended to read as follows:

(1) "Organization" means an organization, corporation, company, partnership, association, trust, foundation, fund, club, society, committee, political party, or any group of persons, whether or not incorporated, permanently or temporarily associated together for joint action or advancement of views on any subject or subjects.

(2) "Subversive organization" means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence.

(3) "Foreign subversive organization" means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual.

(4) "Foreign government" means the government of any country or nation other than the government of the United States of America or of one of the states thereof.

(5) "Subversive person" means any person who

commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them by revolution, force, or violence; or who *with knowledge that the organization is an organization as described in paragraphs two and three hereof, becomes or remains* a member of a subversive organization or a foreign subversive organization.

SEC. 2. This act is necessary for the immediate preservation of the public peace, health and safety, and support of the state government and its existing public institutions and shall take effect immediately.

Passed the Senate January 23, 1953.

Passed the House March 10, 1953.

Approved by the Governor March 17, 1953.

(Emphasis supplied.)

APPENDIX B

Disclaimer oath requirements involved in the leading cases decided by this court.

American Communications Assoc. v. Douds, 339 U. S. 382, 417 (1950).

Quotation taken from (61 Stat. 146, Ch. 120, 29 USCA § 159 (h)).

Affidavits showing union's officers free from Communist Party affiliation or belief

(h) No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 160 of this title, unless there is on file with the Board an affidavit executed contemporaneously or within the preceding twelve-month period by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent unit that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods. The provisions of section 35A of the Criminal Code shall be applicable in respect to such affidavits.

Cramp v. Board of Public Instruction, 368 U. S. 278, 279 (footnote 1) (1961).

Garner v. Board of Public Works, 341 U. S. 716, 717-719.

In 1941 the California Legislature amended the Charter of the City of Los Angeles to provide in part as follows:

"* * * no person shall hold or retain or be eligible for any public office or employment in the

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[1] The statute in its entirety provides as follows:

"All persons who now or hereafter are employed by or who now or hereafter are on the payroll of the state, or any of its departments and agencies, subdivisions, counties, cities, school boards and districts of the free public school system of the state or counties, or institutions of higher learning and all candidates for public office, are hereby required to take an oath before any person duly authorized to take acknowledgments of instruments for public record in the state in the following form:

"I, ..., a citizen of the State of Florida and of the United States of America, and being employed by or an officer of ..... and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida; that I am not a member of the Communist Party; *that I have not and will not lend my aid, support, advice, counsel or influence to the Communist Party;* that I do not believe in the overthrow of the Government of the United States or of the State of Florida by force or violence; that I am not a member of any organization or party which believes in or teaches, directly or indirectly, the overthrow of the Government of the United States or of Florida by force or violence.

"And said oath shall be filed with the records of the governing official or employing governmental agency prior to the approval of any voucher for the payment of salary, expenses, or other compensation." Fla. Stat. § 876.05. (Italics added.)

The Supreme Court of Florida has construed the portion of the statutory oath printed in italics as follows: "We think the pertinent clause, despite its ungrammatical construction was meant to apply retrospectively and that it should be read as if it had been written 'I have not lent and will not lend' * * *." State v. Diez (Fla.) 97 So 2d 105, 109.

service of the City of Los Angeles, in any office or department thereof, either elective or appointive, who has within five (5) years prior to the effective date of this section advised, advocated or taught, or who may, after this section becomes effective [April 28, 1941], advise, advocate or teach, or who is now or has been within five (5) years prior to the effective date of this section, or who may, after this section becomes effective, become a member of or affiliated with any group, society, association, organization or party which advises, advocates or teaches, or has, within said period of five (5) years, advised, advocated or taught the overthrow by force or violence of the government of the United States of America or of the State of California.

> "In so far as this section may be held by any court of competent jurisdiction not to be self-executing, the City Council is hereby given power and authority to adopt appropriate legislation for the purpose of effectuating the objects hereof." Cal. Stat. 1941, c. 67.

Pursuant to the authority thus conferred, the City of Los Angeles in 1948 passed Ordinance No. 94,004, requiring every person who held an office or position in the service of the city to take an oath prior to January 6, 1949. In relevant part the oath was as follows:

> "I further swear (or affirm) that I do not advise, advocate or teach, and have not within the period beginning five (5) years prior to the effective date of the ordinance requiring the making of this oath or affirmation, advised, advocated or taught, the overthrow by force, vio-

lence or other unlawful means, of the Government of the United States of America or of the State of California and that I am not now and have not, within said period, been or become a member of or affiliated with any group, society, association, organization or party which advises, advocates or teaches, or has, within said period, advised, advocated or taught, the overthrow by force, violence or other unlawful means of the Government of the United States of America, or of the State of California. I further swear (or affirm) that I will not, while I am in the service of the City of Los Angeles, advise, advocate or teach, or be or become a member of or affiliated with any group, association, society, organization or party which advises, advocates or teaches, or has within said period, advised, advocated or taught, the overthrow by force, violence or other unlawful means, of the Government of the United States of America or of the State of California * * *."

The ordinance also required every employee to execute an affidavit "stating whether or not he is or ever was a member of the Communist Party of the United States of America or of the Communist Political Association, and if he is or was such a member, stating the dates when he became, and the periods during which he was, such a member * * *."

Gerende v. Election Board, 341 U. S. 56 (1951) 197 Md. 282, 78 A 2d 660.

The oath is set out in *Shub v. Simpson*, 196 Md. 177, 76 A 2d 332, 333. This oath must be read together with the construction placed on it by state authorities referred to in *Gerende*.

"No person shall become a candidate for election under the provisions of Article 33 of the Annotated Code of Maryland to any public office whatsoever in this State, unless he or she shall file with the certificate of nomination required by the foregoing Article, an affidavit that he or she is not a subversive person as defined in this article; provided that, in the case of certificates of nomination for President or Vice President of the United States, the affidavit may be made on behalf of such candidates by those persons who file the certificate of nomination for such candidates. No certificate of nomination shall be received for filing by any Board of Supervisors of Elections or by the Secretary of State of Maryland unless accompanied by the affidavit aforesaid, and there shall not be entered upon any ballot or voting machine at any election the name of any person who has failed or refused to make the affidavit aforesaid."

Speiser v. Randall, 357 U. S. 513, 516-517 (1958), Art. 20, § 19 Calif. Const. and in footnote 2—§ 32 Revenue and Taxation Code.

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[2]Section 32 provides:

"Any statement, return, or other document in which is claimed any exemption, other than the householder's exemption, from any property tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State shall contain a declaration that the person or organization making the statement, return, or other document does not advocate the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means nor advocate the support of a foreign government against the United States in event of hostilities. If any such statement, return, or other document does not contain such declaration, the person or organization making such statement, return, or other document shall not receive any exemption from the tax to which the statement, return, or other document pertains. Any person or organization who makes such declaration knowing it to be false is guilty of a felony. This section shall be construed so as to effectuate the purpose of Section 19 of Article XX of the Constitution."

Article 20, § 19, of the California Constitution, adopted at the general election of November 4, 1952, provides as follows:

> "Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:
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> * * *
>
> "(b) Receive any exemption from any tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State.
>
> "The Legislature shall enact such laws as may be necessary to enforce the provisions of this section."

Wieman v. Updegraff, 344 U. S. 183, 184 (1952) (footnote 1).

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[1] "I, ..., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Oklahoma against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Oklahoma; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of Oklahoma by force or violence or other unlawful means; that I am not affiliated directly or indirectly with the Communist Party, the Third Communist International, with any foreign political agency, party, organization or Government, or with any agency, party, organization, association, or group whatever which has been officially determined by the United States Attorney General or other authorized agency of the United States to be a communist front or subversive organization; nor do I advocate revolution, teach

or justify a program of sabotage, force or violence, sedition or treason, against the Government of the United States or of this State; nor do I advocate directly or indirectly, teach or justify by any means whatsoever, the overthrow of the Government of the United States or of this State, or change in the form of Government thereof by force or any unlawful means; that I will take up arms in the defense of the United States in time of War, or National Emergency, if necessary; that within the five (5) years immediately preceding the taking of this oath (or affirmation) I have not been a member of the Communist Party, the Third Communist International, or of any agency, party, organization, association, or group whatever which has been officially determined by the United States Attorney General or other authorized public agency of the United States to be a communist front or subversive organization, or of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of Oklahoma by force or violence or other unlawful means;

"And I do further swear (or affirm) that during such time as I am—*(Here put name of office, or if an employee,) insert 'An employee of' followed by the complete designation of the employing officer, office, agency, authority, commission, department or institution.*

"I will not advocate and that I will not become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of Oklahoma by force or violence or other unlawful means."

[2]The state officials named as defendants in Updegraff's suit took the position in the state courts that the statute was unconstitutional. Following a policy of the Oklahoma Attorney General not to appeal from adverse decisions of the state supreme court, these defendants are here only because they were made appellees by the appellant-intervenors. They have chosen in their brief merely to restate, without argument, their position in the court below.